

# Eight months jail for running down Garda

A GARDA this week told Kenmare Court how he was 'catapulted into the air' when struck by a car driven straight at him at speed while he was on checkpoint duty.

The Garda also told how he had to crawl through thick undergrowth after escaping over a wall as the car reversed towards him. The driver of the same car followed over the wall, looking for him. The Garda's injuries included two broken hands and extensive cuts and bruising.

Defendant, Mr. Philip David Hayton (33), an electrician, married, of Bag End, Dromatouk, Kenmare, pleaded guilty to assaulting Garda Michael O'Brien of Kenmare by driving a car at him and occasioning him actual bodily harm at Killowen, Kenmare, on May 17 last.

Justice Humphrey Kelleher sentenced Philip Hayton to eight months in prison for the assault. He

also fined him £100 on a charge of dangerous driving, banning him from driving for three years and fined him an additional £50 on a charge of driving without insurance. The defendant waived his right to trial before judge and jury, opting for trial in the District Court. He has lodged an appeal against the sentence.

Defending solicitor, Mr. Michael Larkin, asked Justice Kelleher to consider suspending the prison sentence. Mr. Larkin said he had no wish to annoy the Justice, his own view of the incident was just as serious as the Justice's view. But he was asking in view of the man's previous good record and his good conduct immediately following the assault. The Solicitor asked if he could find it in his heart as Christmas approached to suspend the prison sentence. "Will the defendant benefit and will

society benefit from incarcerating this young man?" Mr. Larkin said.

Justice Kelleher replied that he didn't believe that society would benefit and prison may be no deterrent. But he could not suspend the sentence.

"If it goes forth from this Court in the newspapers, that this man was sentenced to eight months imprisonment today, it might stop people driving cars at members of the Garda Síochána," Justice Kelleher, commented.

The Justice said he had no wish to comment thus as he passed sentence.

"Hard cases make bad law and your client should know that only for you he'd be going away for 12 months. He got himself into a terrible mess and he'll have to pay for it," Justice Kelleher said.

Supt. Michael Burke, prosecuting, read a statement made by Garda Michael O'Brien. It told how Garda O'Brien was on mobile duty from 6 p.m.

to 2 a.m. on May 16/17 last. At 11.45 p.m. he drove the patrol car to Killowen and parked on the Kenmare side of the football field — under a street light with the Garda sign lit up.

He wore a scotch light belt and carried a torch. It was a fine, bright night. At 12.30 a.m. he stopped Philip Hayton and asked him for his tax, insurance and driver's licence. He undertook to produce his licence and insurance in Kilgarvan Garda station. Garda O'Brien said the man was alone and there seemed to be no sign of intoxication.

Later, at 12.50 a.m., Garda O'Brien was approached by a vehicle and he signalled it to stop. It slowed down, giving the impression of stopping, but suddenly it increased speed and drove straight at him. The car struck him and he remembered being catapulted through the air and he ended up face downwards against the golf

links wall.

The car reversed towards him and he scrambled over the wall, landing in dense undergrowth. He crawled through the undergrowth as the driver had followed him. Finally, he heard the car drive away in the direction of Kilgarvan. He knew that Philip Hayton was the driver.

Supt. Burke also read a statement that Philip Hayton had made in Kilgarvan Garda Barracks to Garda Tom MacDonnell just two hours after the incident.

Philip Hayton said he had left the Purple Heather in Kenmare at 11.45 that night and he drove towards Kilgarvan. Garda O'Brien stopped him and asked about his tax, insurance and licence. He agreed to produce these in Kilgarvan and drove on. He later stated that his insurance had expired on March 1, 1984.

He drove back around to try to explain his position

to Garda O'Brien, but as he neared the Garda, he panicked thinking about the consequences of being without his car. After he struck the Garda he reversed back and followed him over the wall intending to apologise. When he jumped over the wall he landed in about five feet of briars. When he jumped back on to the road, he landed on Garda O'Brien's clipboard which he threw into his own car.

Mr. Hayton said he was extremely sorry and upset for what happened. "I cannot understand what came over me," he stated.

Defence solicitor, Mr. Michael Larkin, said that it was the most serious case on which he had ever addressed the Justice. His client was English-born, married and the family financial circumstances weren't good at the time. He didn't have insurance when stopped by Garda O'Brien and he thought he'd be put off the road immediately he failed to

produce it. He felt he couldn't face his wife, who had argued with him not to drive without insurance, so he decided to go back and explain his problem to the Garda.

At this stage something "cracked" and he drove at the Garda. He had gone over the wall to assure the Garda he was sorry. Mr. Larkin said he could plead that his client had drunk taken, but this wasn't true. He had sought psychological assessment for his client which concluded that he was normal. But he was subject to undue pressure at the time, being stopped by the Garda had proved to be the last straw.

But Mr. Larkin pointed out that he had promptly gone to his local Garda, Tom MacDonnell in Kilgarvan. Garda MacDonnell had kindly made him tea and after discussion he had made a full and frank statement. He had no previous record, since the incident he had been troubled by regret and remorse.